

§ 14.71 Closeout procedures.

(a) Recipients shall submit, within 90 calendar days after the date of completion of the award, all financial, performance, and other reports as required by the terms and conditions of the award. The Grants Officer may approve extensions when requested by the recipient.

(b) Unless the Grants Officer authorizes an extension, a recipient shall liquidate all obligations incurred under the award not later than 90 calendar days after the funding period or the date of completion as specified in the terms and conditions of the award or in agency implementing instructions.

(c) The Grants Officer shall authorize and the DoC shall make prompt payments to a recipient for allowable reimbursable costs under the award being closed out.

(d) The recipient shall promptly refund any balances of unobligated funds that the DoC has advanced or paid and that is not authorized to be retained by the recipient for use in other projects. OMB Circular A-129 governs unreturned amounts that become delinquent debts.

(e) When authorized by the terms and conditions of the award, the Grants Officer shall make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.

(f) The recipient shall account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with §§ 14.31 through 14.37.

(g) In the event a final audit has not been performed prior to the closeout of an award, the DoC shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

§ 14.72 Subsequent adjustments and continuing responsibilities.

(a) The closeout of an award does not affect any of the following:

(1) The right of the DoC to disallow costs and recover funds on the basis of a later audit or other review.

(2) The obligation of the recipient to return any funds due as a result of

later refunds, corrections, or other transactions.

(3) Audit requirements in § 14.26.

(4) Property management requirements in §§ 14.31 through 14.37.

(5) Records retention as required in § 14.53.

(b) After closeout of an award, a relationship created under an award may be modified or ended in whole or in part with the consent of the DoC and the recipient, provided the responsibilities of the recipient referred to in § 14.73(a), including those for property management as applicable, are considered and provisions made for continuing responsibilities of the recipient, as appropriate.

§ 14.73 Collection of amounts due.

(a) Any funds paid to a recipient in excess of the amount to which the recipient is finally determined to be entitled under the terms and conditions of the award constitute a debt to the Federal Government. If not paid within a reasonable period after the demand for payment, the Grants Officer may reduce the debt by:

(1) Making an administrative offset against other requests for reimbursements;

(2) Withholding advance payments otherwise due to the recipient; or

(3) Taking other action permitted by statute.

(b) Except as otherwise provided by law, the DoC shall charge interest on an overdue debt in accordance with 4 CFR Chapter II, "Federal Claims Collection Standards."

APPENDIX A TO PART 14—CONTRACT PROVISIONS

All contracts, awarded by a recipient including small purchases, shall contain the following provisions as applicable:

1. *Equal Employment Opportunity*—All contracts shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

2. *Copeland "Anti-Kickback" Act* (18 U.S.C. 874 and 40 U.S.C. 276c)—All contracts and subgrants in excess of \$2000 for construction or

repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the DoC operating unit.

3. *Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7)*—When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than \$2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the DoC operating unit.

4. *Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333)*—Where applicable, all contracts awarded by recipients exceeding \$100,000 for construction contracts and for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR Part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dan-

gerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. *Rights to Inventions Made Under a Contract or Agreement*—Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

6. *Clean Air Act (42 U.S.C. 7401 et seq.)* and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended—Contracts and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the DoC operating unit and the Regional Office of the Environmental Protection Agency (EPA).

7. *Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)*—Contractors who apply or bid for an award exceeding \$100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

8. *Debarment and Suspension (E.O.s 12549 and 12689)*—No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension" as implemented by DoC regulations at 15 CFR part 26. This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with

Office of the Secretary, Commerce

§ 15.2

awards that exceed the simplified acquisition threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

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PART 15—LEGAL PROCEEDINGS

Subpart A—Service of Process

Sec.

15.1 Scope and purpose.

15.2 Definitions.

15.3 Acceptance of service of process.

Subpart B—Testimony by Employees and the Production of Documents in Legal Proceedings

15.11 Scope.

15.12 Definitions.

15.13 Demands for testimony or production of documents: Department policy.

15.14 Demand for testimony or production of documents: Department procedures.

15.15 Procedures when a Department employee receives a subpoena.

15.16 Legal proceedings between private litigants: Expert or opinion testimony.

15.17 Demands or requests in legal proceedings for records protected by confidentiality statutes.

15.18 Testimony of Department employees in proceedings involving the United States.

Subpart C—Involuntary Child and Spousal Support Allocations of NOAA Corps Officers

15.21 Purpose.

15.22 Applicability and scope.

15.23 Definitions.

15.24 Policy.

15.25 Procedures.

Subpart D—Statement of Policy and Procedures Regarding Indemnification of Department of Commerce Employees

15.31 Policy.

15.32 Procedures for the handling of lawsuits against Department employees arising within the scope of their office or employment.

AUTHORITY: 5 U.S.C. 301; 15 U.S.C. 1501, 1512, 1513, 1515 and 1518; Reorganization Plan No. 5 of 1950; 3 CFR, 1949–1953 Comp., p. 1004; 44 U.S.C. 3101; subpart C is issued under 37 U.S.C. 101, 706; 15 U.S.C. 1673; 42 U.S.C. 665.

EDITORIAL NOTE: Nomenclature changes to part 15 appear at 62 FR 19669, Apr. 23, 1997.

Subpart A—Service of Process

SOURCE: 53 FR 41318, Oct. 21, 1988, unless otherwise noted. Redesignated at 62 FR 19669, Apr. 23, 1997.

§ 15.1 Scope and purpose.

(a) This subpart sets forth the procedures to be followed when a summons or complaint is served on the Department, a component, or the Secretary or a Department employee in his or her official capacity.

(b) This subpart is intended to ensure the orderly execution of the affairs of the Department and not to impede any legal proceeding.

(c) This subpart does not apply to subpoenas. The procedures to be followed with respect to subpoenas are set out in subpart B.

(d) This subpart does not apply to service of process made on a Department employee personally on matters not related to official business of the Department or to the official responsibilities of the Department employee.

[53 FR 41318, Oct. 21, 1988. Redesignated and amended at 62 FR 19669, 19670, Apr. 23, 1997]

§ 15.2 Definitions.

For the purpose of this subpart:

(a) *General Counsel* means the General Counsel of the United States Department of Commerce or other Department employee to whom the General Counsel has delegated authority to act under this subpart, or the chief legal officer (or designee) of the Department of Commerce component concerned.

(b) *Component* means Office of the Secretary or an operating unit of the Department as defined in Department Organization Order 1–1.

(c) *Department* means the Department of Commerce.

(d) *Department employee* means any officer or employee of the Department, including commissioned officers of the National Oceanic and Atmospheric Administration.

(e) *Legal proceeding* means a proceeding before a tribunal constituted by law, including a court, an administrative body or commission, or an administrative law judge or hearing officer.